

FLOOD RESOLUTION SENT BACK TO THE HOUSE WITH VETO FROM TAFT

(Continued from Page One)

the courage to render an unbiased decision. It would be disgraceful to consider a majority of 50 per cent of the voters of the country or state for no good cause of the judge. This has been in office are entitled to submit their objection to the selection in office and shall do so. The petitioning members will see on the ballot what they can agree upon. In two words, the man chosen as next he can do the most good.

Other candidates are permitted to present themselves and have their names written on the ballot, so that the ballot is not based solely on the record or the acts of judges, but also on the question whether some other and more popular candidate has been selected to succeed him.

Should there be a system more ingeniously devised to subject judges to momentary gusts of popular passion than this? We cannot be blind to the fact that often an intelligent and responsible electorate may be so roused over an issue that it will visit with condemnation the decision of a just judge, though exactly in accord with the law governing the case merely because it affects unfriendly constituents.

Controversy over elections, labor troubles, racial or religious issues, is liable to the construction or constitutionality of liquor laws, criminal trials of popular or unpopular defendants, the removal of county seats, suits by individuals to maintain their constitutional rights in obstruction of some popular improvements, these and many other cases could be cited in which a majority of a district electorate would be tempted by hasty anger to recall a conscientious judge if the opportunity were open all the time.

No period for delay is interposed for the abstention of popular filing. The result is devised to encourage quick action and to lead the people to stock while the iron is hot. The judge is treated as an instrument and servant of a majority of the people and subject to their momentary will, not after a long term in which his qualities as a judge and his character as a man have been subjected to a test of all the varieties of judicial work and duty so as to furnish a proper means of measuring his fitness for continuance in another term.

On the instant of an unpopular ruling to which he may be sustained, he is to be haled before the electorate in a tribunal, with no judicial hearing, evidence or defense, and thrown out of office and disgraced for life because he has failed in a single decision. It may be to satisfy the popular demand.

Think of the opportunity such a system would give to unscrupulous political bosses in control, as they have been in control, not only of constituencies, but of elections. Think of the enormous power for evil given to the sensational, muck-making portion of the press in a causing prejudice against a just judge by false charges and innuendos, the effect of which, in the short period of an election by recall, it would be impossible for him to meet him and offset.

Supporters of such a system seem to think it will work only the interest of the poor, the humble, the weak, and the oppressed; that it will strike down only the judge who is supposed to favor corporations and be effected by the corrupting influence of the rich. Nothing could be further from the ultimate result. The motive it would offer to unscrupulous combinations to seek to control politics in order to control the judges is clear.

Those who will benefit by the recall are those who have the best opportunity of arousing the majority of the people to action on a sudden impulse. Are they likely to be the wisest or the best people in a community, do they not include those who have money enough to employ fire brands and blunders in a community, and the voices of social hate? Would not such respecting men well hesitate to accept judicial office with such a cloud of thunders hanging over them?

What kind of judgments might the unscrupulous side expect from courts whose judges who must make their decisions under such legalized terrorism? The character of the judges seems antithetic to that of trimmers and time servers and independent action would be a thing of

the past. As the possibilities of such a system pass in review, it is too much to characterize it as one which will destroy the integrity, its standing, and its usefulness. The argument has been made to justify the judicial recall that it is only carrying out the principles of the election of the judges by the people. The appointment by the executive is by the representative of the majority and in far no future time is concerned this is no gross difference between the appointment and the election of judges. The independence of the judiciary is secured rather to a fixed term and used and renewable. It is true that when the term of judges for a limited number of years and re-election is necessary, it has been thought and adopted some time that shortly before election, in cases in which major interests are involved, judges may lean in their decisions toward popular side.

As already pointed out, however, in the election of judges for a long and fixed term of years, the fear of popular prejudice as a motive for unjust decisions is minimized by the tenure on the bench, while the opportunity which the people have calmly to consider the work of a judge for a full term of years in deciding as to his re-election generally insures from them a fair and reasonable consideration of his qualities as a judge.

While, therefore, there have been elected judges who have bowed before unjust popular prejudices, or who have yielded to the power of political bosses in their decisions, I am convinced that these are exceptional and, that on the whole, elected judges have made a great American judiciary. But the success of an elective judiciary certainly furnishes no reason for so changing the system as to take away the very safeguards which have made it successful.

Attempt is made to defend the principle of judicial recall by reference to states in which judges are said to have shown themselves to be under corrupt corporate influence, and in which it is claimed that nothing but a desperate remedy will suffice. If the political control in such states is sufficiently weakened from corrupting corporations to permit the enactment of a radical constitutional amendment like that of judicial recall, it would seem possible to make provision in its stead of offering remedy by impeachment in which the cumbersome features of the present remedy might be avoided, but the opportunity, for judicial hearing and defense before a impartial tribunal might be retained.

To this I would answer that in dealing with the courts, which are the cornerstone of good government and in which not only the voters, but tax payers and non-residents, have a deep interest as a security for their rights of life, liberty and property, no matter what the future action of the state may be, it is necessary for the authority which is primarily responsible for creating a system in independent and untrammeled judiciary.

Signed: WILLIAM H. TAFT.

The White House, August 15, 1911.

SMITH DECLARES THAT STATEHOOD FIGHT WILL NOT BE ABANDONED YET

State Correspondence
The Evening Herald
Room 16 Post Bldg.
Washington, Aug. 15.—Promptly following the reading of the vote message to the house today, William A. Smith in the senate presented another statehood resolution, designed along the lines of the late Nelson substitute, which he declared he would push as fast as possible in an effort to have New Mexico and Arizona admitted to the union at this session.

Senator Smith declared today that his resolution met with the approval of Mr. Tat and he believed there would be no delay in the admission of the territories if both branches of congress passed it at once.

Mr. Smith said he had summoned the committee on territories and that his resolution would be reported back to the senate tomorrow with a request for prompt consideration.

Mr. Smith added that the house, having tried its hand at statehood and failed, it was now up to the senate to give statehood to the territories by presenting a resolution that would meet with Mr. Tat's approval.

The resolution championed by Mr. Smith provides that the recall of the judiciary in the Arizona constitution shall be stricken out as a condition to the admission of that state.

COULDN'T SEE THE CONNECTION THERE

The late Ex-Mayor of New York, who died the other day, told this story to a Tribune reporter about seven years ago: "When I was a member of congress, shortly after Grant's second election, I was at one of the weekly white glove receptions I had to the president. The crowd seemed to grow larger every week; this is getting to be a great country," said Grant, and as the democrats were pretty badly crushed last month, there's nothing now to hinder the national progress." But general," said L. don't forget the poet's line, "Truth crushed to earth will rise again"; I don't forget it, said he laughing, only fail to see the connection between truth and the democratic party." —Register Tribune.

The righteous and just course for a judge to pursue is ordinarily fixed by statute or clear principles of law and the causes in which his judgment may be affected by his political, economic or social views are not frequent.

But even in such cases judges are not removed from the people's influence. Surround the judiciary with all the safeguards possible, create judges by appointment, measure their tenure for life, could diminution of salary during their term and still it is impossible to prevent the influence of popular opinion from coloring judgments in the long run.

Judges are men, intelligent, sympathetic men, patriotic men, and in those fields of the law in which the personal equation unavoidably plays a part, there will be found a response to wider popular opinion in changes to meet the exigency of social, political and economic changes.

Indeed, this should be so. Individual instances of a hide-bound and retrograde conservatism on the part of

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The Markets

MARKET IS DULL BUT STILL STEADY

Standard Oil Declares its Usual Dividends Although Such Action Was a Foregone Conclusion.

(By Evening Herald A. P. Leased Wire)
New York, Aug. 15.—Except for its steadier tendency and increased dullness the market continued quite featureless for the rest of the early session.

Declaration of the usual Standard Oil dividend was of sentimental value, even though such action had been accepted as a foregone conclusion. On the exchange there was a disposition to regard the early declines as resulting from bear operations, but in other quarters the moving was attributed to mild liquidation.

Bonds were steady.

The stagnation of the early afternoon was followed by a slight increase of activity with another attack on Union Pacific which brought that stock down to its early decline. Other issues fell in sympathy and the movement suggested a revival of bear tactics. Texas Company made a new low record, steadily downward par.

The market closed irregular. Aside from a 3½% decline in Texas Company the last was almost featureless in the last hour. Most of the active issues showed fractional losses, but the selling pressure was not renewed until in the last few minutes when moderate offerings resulted in further reversions, with special weakness in Amalgamated Copper.

New York Stocks.

New York, Aug. 15.—Amalgamated,

Sugar, 115.

Athlon, 100½.

Great Northern preferred, 128.

Northern Pacific, 129 2-4.

Reading, 145 2-4.

Southern Pacific, 114 5-8.

Union Pacific, 172 5-8.

Steel, 132 2-4.

Steel, preferred, 115 5-8.

New York Cotton.

New York, Aug. 15.—Cotton spot

closed steady, 15 points higher, middling upland, \$12.60; middling gulf,

\$12.85. No sales.

St. Louis Spelter.

St. Louis, Mo., Aug. 15.—Lead

lower, 43½; spelter higher, \$6.02.

New York Metals.

New York, Aug. 15.—Copper spot,

\$12.15; \$12.27 1/2; lead, \$4.45; \$4.60;

silver, 52.

New York Money.

New York, Aug. 15.—Prime paper,

4 1/4-4 1/2 per cent; Mexican dollars,

45; call money, 2 1/2-3 1/2 per cent.

Chicago Grain.

Chicago, Aug. 15.—Lower, cables and fair threshing weather, together with a Winnipeg report that little damage had been due by rain depressed wheat prices a trifle further at the opening today. English grain traders reported the labor situation at Liverpool critical. September opened 1-4 to 5-8c under yesterday. The close was weak; September closing 1 1/2 to 1-8c.

Selling of corn was a bit overdone at the opening and shorts covered, holding prices closed to last night's level. September opened 1-4 to 3-5c down at 63 1/2c to 63 5-8c and 6 1/4c and sold back to 64c. The close was firm with September 1-4 7-8c up at 64 1-8c to 64 1-4c.

On a demand from shorts oats sold slightly better than yesterday's close. September opened unchanged to 1-4 lower at 61c to 60 2-4c and advanced to 61 1-4c.

Provisions were dull and lower in sympathy with a decline in hogs. September closed 7 1/2c down to 7 1/2c; October 1-4c lower at \$9.95. There was no early trading in pork.

Chicago Livestock.

Chicago, Aug. 15.—Cattle receipts, 7,000, steady to 10 lower. Beefers, \$2.10-9.60; Texas steers, \$2.00-9.60; western steers, \$2.00-9.50; stockers and feeders, \$2.15-9.50; calves, \$3.75-7.75.

Hogs—Receipts 8,000, steady; heavy, \$7.15-9.75; mixed, 6.50-9.50; heavy, \$6.80-9.75; rough, \$6.80-9.75; good to choice heavy, \$7.50-9.50; pigs, \$6.00-9.75; bulk of bacon, \$7.00-9.75.

Hogs—Receipts 8,000, steady; heavy, \$7.20-9.75; packers and butchers, \$7.25-9.75; hams, \$7.25-9.75.

Sheep—Receipts 8,000, lower. Mutton, \$3.25-5.00; lambs, \$3.50-5.50; range wethers and yearlings, \$3.25-5.00; range ewes, \$2.50-5.50.

Kansas City Livestock.

Kansas City, August 15.—Cattle steady. Native steers, \$5.00-9.75; 40;

southern steers, \$5.80-9.75; southern cows and heifers, \$2.00-9.50; native cows and heifers, \$2.50-9.50; steers and feeders, \$2.75-9.50; bulls, \$2.00-4.50; calves, \$4.00-9.75; western steers, \$4.50-9.75; western cows, \$2.75-9.75.

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St. Louis Wool.

St. Louis, Mo., Aug. 15.—Wool

steady, fine mediums, 14@17c; fine,

11@14c.

Grain and Provisions.

Chicago, Aug. 15.—Wheat—Sept.

89 1-8c; Dec., 93 1-8c to 93 5-8c.

Corn—Sept., 64 1-8c to 64 1-4c; Dec.,

61 1-4c.

Hear! Hear! Golden Rule

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